

Interim Decision #2038

MATTER OF HARRISON

In Section 249 Proceedings

A-18356268

*Decided by District Director March 11, 1970*

Applicant, who has resided continuously in the United States since entry in 1915 except for an absence of 3 years and 5 months while serving in the Canadian Armed Forces during World War II, did not by such absence break the continuity of residence for the purpose of section 249, Immigration and Nationality Act, as amended, since there is no evidence he ever intended to abandon his residence in the United States, not having established a residence in another country during such absence, having maintained a mailing address in this country where he resided prior and subsequent to service in the Canadian Army, and having returned to the United States immediately upon discharge from the Canadian Army.

ON BEHALF OF APPLICANT: Ben C. Shapero, Esquire

Dr. Simon Harrison was born in Canada on October 5, 1912. He claims that he first entered the United States on August 16, 1915, in the company of his father, mother, two brothers and sister. (This is verified by form I-404 on file, which also reflects that the children, including subject, were admitted as United States citizens.) The applicant claims that he has traveled to Canada on numerous occasions since entry, but has stayed no more than a few days on each visit, except for an extended absence while serving in the Canadian Armed Forces during the Second World War. He has apparently gained readmission on each occasion through claim to United States citizenship.

He advised that until recently he had presumed that he was a citizen of the United States through his father's naturalization on June 27, 1927. The file indicates that he would have derived citizenship through this act had he been lawfully admitted to the United States for permanent residence in 1915, rather than erroneously admitted as a United States citizen.

The applicant claims that at the start of United States involvement in the Second World War he applied for a commission in the United States Army based on his profession as a dentist. He